

## **§ 1313.41**

### **§ 1313.41 Suspension of shipments.**

(a) The Administrator may suspend any importation or exportation of a chemical listed in §1310.02 of this chapter based on evidence that the chemical proposed to be imported or exported may be diverted to the clandestine manufacture of a controlled substance. If the Administrator so suspends, he shall provide written notice of such suspension to the regulated person. Such notice shall contain a statement of the legal and factual basis for the order.

(b) Upon service of the order of suspension, the regulated person to whom the order applies under paragraph (a) of this section must, if he desires a hearing, file a written request for a hearing pursuant to §§1313.51–1313.57.

### **§ 1313.42 Prohibition of shipments from certain foreign sources.**

(a) If the Administrator determines that a foreign manufacturer or distributor of ephedrine, pseudoephedrine, or phenylpropanolamine has refused to cooperate with a request by the Administrator for information known to the manufacturer or distributor on the distribution of the chemical, including sales, the Administrator may issue an order prohibiting the importation of the chemical in any case where the manufacturer or distributor is part of the chain of distribution.

(b) Not later than 60 days prior to issuing the order to prohibit importation, the Administrator shall publish in the FEDERAL REGISTER a notice of intent to issue the order. During the 60-day period, imports from the foreign manufacturer or distributor may not be restricted under this section.

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## **HEARINGS**

### **§ 1313.51 Hearings generally.**

In any case where a regulated person requests a hearing regarding the suspension of a shipment of a listed chemical, the procedures for such hearing shall be governed generally by the procedures set forth in the Administrative Procedure Act (5 U.S.C. 551–559) and specifically by section 6053 of the Chemical Diversion and Trafficking

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Act (Pub. L. 100–690), by 21 CFR 1313.52–1313.57, and by the procedures for administrative hearings under the Controlled Substances Act set forth in §§1316.41–1316.67 of this chapter.

### **§ 1313.52 Purpose of hearing.**

If requested by a person entitled to a hearing, the Administrator shall cause a hearing to be held for the purpose of receiving factual evidence regarding the issues involved in the suspension of shipments within 45 days of the date of the request, unless the requesting party requests an extension of time.

### **§ 1313.53 Waiver of modification of rules.**

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

### **§ 1313.54 Request for hearing.**

(a) Any person entitled to a hearing pursuant to §1313.52 and desiring a hearing shall, within 30 days after receipt of the notice to suspend the shipment, file with the Administrator a written request for a hearing in the form prescribed in §1316.47 of this chapter.

(b) If any person entitled to a hearing or to participate in a hearing pursuant to §1313.41 fails to file a request for a hearing or a notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing or to participate in the hearing, unless he shows good cause for such failure.

(c) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to §1313.57.

### **§ 1313.55 Burden of proof.**

At any hearing regarding the suspension of shipments, the Agency shall